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APPLICATION NO.	FILING DATE	FIRST-NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/491,747	01/27/2000	Brad S. Konia	9403-0F255US0	9009

7590 11/30/2004  
Brown RaysmandMillerstein Felder & Steiner LLP  
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EXAMINER
KARMIS, STEFANOS

ART UNIT	PAPER NUMBER
3624	

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/491,747

Applicant(s)

KONIA, BRAD S.

Examiner

Stefano Karmis

Art Unit

3624\

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22, 26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22, 26 and 27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date 04/07/2004
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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**DETAILED ACTION**

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1. This communication is in response to Applicant's amendment filed 31 August 2004.

***Status of Claims***

2. Claims 1 and 11 are currently amended. Claim 23 is withdrawn. Claims 24 and 25 are cancelled. Claims 26 and 27 are newly added. Claims 2-10 and 12-22 are original. Therefore claims 1-22 and 26-27 are under prosecution in this application.

***Summary of this Office Action***

3. Applicant's arguments filed 31 August 2004 have been fully considered but they are not persuasive. Therefore claims 1-22 and 26-27 remain rejected as stated below and Applicant's request for allowance is respectfully declined.

***Response to Arguments***

4. Claims 1-2, 11-13 and 22 are rejected under 35 U.S.C. 102 to Fisher U.S. Patent No. 5,835,896 as discussed in the previous office action, mailed 21 April 2004.
5. Regarding independent claim 1, Applicant has amended the claim to further specify and point out the features of the invention. Specifically Applicant has amended the claim to include
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~~“selected position of priority that the first bidder wishes to maintain in the auction” and~~

~~“checking for whether the first bid is higher than needed to maintain the selected position of priority that the first bidder wishes to maintain in the auction, and if the first bid is higher than needed to maintain the selected position of priority that the first bidder wishes to maintain in the auction, automatically reducing the first bid to a minimum which allows the bidder to keep the selected position of priority.”~~

Applicant asserts that Fisher fails to teach these limitations. The Examiner respectfully disagrees. Applicant's claims specify that a “receiving bid management data from a first bidder for managing bidding by the first bidder in the auction, the received bid management information including a selected position of priority that the first bidder wishes to maintain in the auction.” The Examiner maintains the position that this limitation is specifically taught by Fisher. Fisher teaches selecting a bidding position, specifically the highest ranking bid position (column 6, lines 31-45).

Continuing, Fisher checks for whether a first bid is higher than needed to maintain the selected position (in this case, the highest ranking position) of priority the first bidder wishes to maintain in the auction, and if the first bid is higher than needed to maintain the selected position of priority that the first bidder wishes to maintain in the auction, automatically reducing the first bid to a minimum which allows the bidder to keep the selected position of priority (column 9, lines 17-35 and column 12, line 63 thru column 13, line 8 and Figure 3).

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As discussed in the amendment, claim 1 is illustrative of the response for all currently pending claims. Applicant is invited to contact the Examiner at the earliest convenience to help expedite the prosecution of this application.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefano Karmis whose telephone number is (703) 305-8130. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (703) 308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully Submitted  
Stefano Karmis  
23 November 2004

  
HANI M. KAZIMI  
PRIMARY EXAMINER